

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUAN A. GARCIA and JAVIER PAREDES,

Plaintiffs,

vs.

Civ. No. 24-680 KWR/SCY

WILL TRANSPORT AMERICAN
CORPORATION, and ARIEL MARENCO
MIRANDA, and RAUL MORENO,

Defendants.

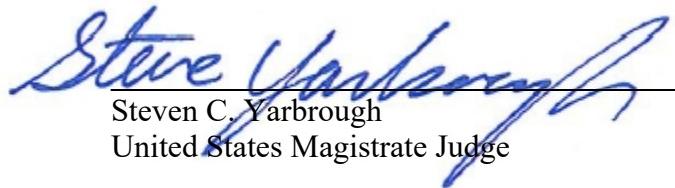
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter comes before the Court sua sponte, following its Order to Show Cause regarding failure to serve Defendant Raul Moreno. Doc. 59. This Order advised Plaintiff that the deadline to serve Defendant Moreno had expired. The Court previously set a service deadline for Defendant Moreno of June 16, 2025. Doc. 50. “Since then,” the Court observed, “the record reflects that Plaintiffs have not served Defendant Raul Moreno, and the time to serve set by the Court has expired.” Doc. 59 at 1.

Plaintiffs’ response to the Order to Show Cause advises that Plaintiffs believe Defendant Moreno “returned to Mexico” and that Plaintiffs “do not currently have a good faith belief that service upon Defendant Raul Moreno can be effectuated at this time.” Doc. 62 at 1. “Accordingly, Plaintiffs have concluded that dismissal of the action against Defendant Raul Moreno (without prejudice) is proper under Rule 4(m).” *Id.* at 2.

Therefore, I recommend that the Court dismiss without prejudice Defendant Moreno. *See* Fed. R. Civ. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the

court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”).



Steven C. Yarbrough
United States Magistrate Judge

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.